

## CHAPTER 16. JUVENILE COURT RULES

These local rules are intended to supplement state statutes which are principally found in the Welfare and Institutions Code. In addition, they supplement the California Rules of Court relating to juvenile court matters (see CRC –1400-1497).

There are two sections to these local rules. The first includes general provisions which apply to all juvenile court matters. The second applies to dependency proceedings (Welfare and Institutions Code Section 300, et cetera).

To the extent that any of these rules conflict with either state statute or California Rules of Court, the local rule is of no legal effect.

These rules cover juvenile court law, but not juvenile traffic hearings or traffic hearing appeals.

For the authority for the creation of these rules see CRC 1400(b).

These rules adopt the rule of construction and the severability of clauses in CRC 1400(c) and (d).

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2003

### 16.1 Judicial Administration

There shall be one presiding judge of the juvenile court. The presiding judge shall be selected by the presiding judge of the superior court.

Eff. Jan. 1, 1999.

### 16.2 Noticed Motions and Requests to Place Matter on Calendar

No noticed motion shall be accepted by the clerk for filing unless it is accompanied by a proof of service.

No request to place a matter on calendar, except a request to set a detention hearing, will be accepted by the clerk or placed on calendar, unless the request is submitted in writing not less than 48 hours prior to the requested hearing date.

Eff. Jan. 1, 1999.

### 16.3 Prehearing Discovery

- a. **Timely Disclosure of Informal Discovery.** Prehearing discovery shall be conducted informally. Except as protected by privilege, all relevant

material shall be disclosed in a timely fashion to all parties to the litigation  
In re Jose Z. (1970) 3 Cal.3d 797, CRC 1620.

**b. Formal Motions**

- 1. Formal Discovery.** Only after all informal means have been exhausted may a party petition the court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five (5) judicial days before the hearing date. The date for the hearing shall be obtained from the clerk of the department hearing juvenile matters.

Any responsive papers shall be filed and served two (2) judicial days prior to the hearing.

- 2. Civil Discovery.** In order to coordinate the logistics of any such discovery, there shall be no depositions, interrogatories, subpoenas of juvenile records or other similar types of civil discovery without approval of a judge of the juvenile court upon noticed motion.

- 3. Dependency Proceedings.** In dependency proceedings social reports prepared by the probation officer or social worker must be available to all counsel ten (10) days before the hearing. Such reports may be mailed to counsel.

In contested proceedings the social worker log notes shall be made available to all counsel ten (10) days before the hearing.

The names of any experts to be called by any party and copies of their reports shall be made available to all parties ten (10) days before the hearing.

- c. Requests for Transcripts.** In any juvenile case a party requesting a reporter's transcript shall apply in writing to the judicial officer who heard the matter in question.

Eff. Jan. 1, 1999.

**16.4 Ex Parte Orders**

- a. Application For Ex Parte Order; Declaration.** An ex parte order will be issued only if the application is accompanied by a declaration adequate to support its issuance. Ordinarily, an ex parte order will not be issued

unless one of the following conditions exist:

1. Notice was given to all counsel, social workers, child advocates, and parents who are not represented by counsel so that party might oppose the application;
  2. It clearly appears in the declaration that giving notice would frustrate the purpose of the proposed order;
  3. The applicant or the child would suffer an irreparable injury before the other parties could be heard in opposition; or,
  4. It appears by declaration that no significant burden or inconvenience will result to the adverse parties.
- b. The party requesting the ex parte order may apply to the clerk in the juvenile department where the matter would normally be heard for a time to submit the request.
- c. The party requesting the ex parte orders must inform the judge that notice has been given by submitting a "Declaration Re Notice of Ex Parte Application". The Declaration shall state the names of the persons to whom notice was given, the manner of giving notice, that the persons were given a copy of the application or notice of its content, and the time that the matter would be submitted to the court, and if notice was not given to any person entitled thereto, the reason that such notice was not given. The original declaration and accompanying Application for Order must be submitted to the court clerk in the juvenile department where the matter would normally be heard.

Eff. Jan. 1, 1999.

### **16.5 Attendance at Hearings (CRC 1610)**

Unless excused by the court, each party and attorney shall attend each scheduled juvenile court hearing.

Eff. Jan. 1, 1999.

### **16.6 Settlement Conference (No Statute) (No Court Rule)**

Settlement conferences shall be held prior to every contested hearing, unless expressly deemed unnecessary by the judicial officer setting the contested hearing.

Eff. Jan. 1, 1999.

### **16.7 Access to Courtroom by Non-Parties (W&I 345,346,676)**

Unless specifically permitted by statute, juvenile court proceedings are confidential and shall not be open to the general public.

The court encourages interested persons to attend juvenile proceedings in order to better understand the workings of the juvenile court. The court retains the discretion to determine in each case whether any such interested party shall remain in the courtroom.

The court or its agent shall remind each such nonparty that the names of parties or identifying information from any case is confidential and should not be repeated to anyone outside of the court.

Eff. Jan. 1, 1999.

## **16.8 Release of Information Relating to Juveniles**

- a. Discovery of Juvenile Records.** In all cases in which a person or agency seeks access to juvenile court records, including records maintained by the court clerk, the Probation Department or the Department of Social Services, Child Protective Service (hereinafter referred to as Child Protective Services), and arrest records maintained by a law enforcement agency, the person or agency shall file a petition with the judge of the juvenile court. The petition shall set forth with specificity the materials sought and the relevance of the materials to the underlying action. The petition shall be supported by a declaration of counsel and if necessary a memorandum of points and authorities. See the Appendix for suggested form for "Application for Juvenile Court Records".

The person or agency seeking the records shall give notice to all necessary parties. (Welfare and Institutions Code section 827).

In the event that the court orders an in camera review of the records the custodian of the records shall deliver to the court a photographic copy of the entire record and shall clearly note for the court the specific portions of the record to which the custodian objects disclosing together with the basis for such objection.

**b. Discovery of Juvenile Records by District Attorney**

- 1. Subject Documents.** The supervisor of Child Protective Services and the probation officer or the supervisor's or probation officer's designee is hereby authorized to allow the district attorney or a child protective agency representative, police or sheriff's department, or county welfare department to inspect the following documents.

- a. A petition filed in any juvenile court proceeding.
- b. Any reports of the probation officer or social worker.
- c. All other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge or other hearing officer, and thereafter retained by the probation officer, social worker, judge or other hearing officer.

- 2. **Declaration.** Said inspection shall be made only after the district attorney or child protective agency has filed a declaration with said supervisor or the designee under penalty or perjury, stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or proceeding brought to declare a person a dependent child or ward of the juvenile court.

The declaration requesting such inspection shall be filed in the minor's court file or, if there is none, in the file maintained by the probation department or child protective services.

**c. Access to Psychological Records by Juvenile Hall Medical Director.**

The Medical Director of Juvenile Hall or his/her designee shall be provided a copy of all mental health evaluations of minors housed in juvenile hall. If the probation officer or supervising probation officer finds that the contents of a diagnostic report rendered by the California Youth Authority are relevant to the duties of the medical director, the medical director shall also be provided with a copy of that diagnostic report. Such reports and evaluations shall be used exclusively by the medical personnel in juvenile hall and shall not be released to any third parties without court approval.

**d. Access to Probation Department and Department of Family and Children's Services Records by Court Designated Child Advocates.**

- 1. For the purpose of implementing the court designated Child Advocate Program, volunteers serving in the program are considered court personnel as that term is used in Welfare and Institutions Code section 827. They shall have access to probation department and child protective services' files and information contained therein needed to carry out their responsibilities as court appointed advocates.
- 2. Any release by the probation department or the child protective services pursuant to this rule of information made confidential by Welfare and Institutions Code section 10850 shall be considered a

disclosure for purposes directly connected with the administration of public social services as that term is used in Welfare and Institutions Code section 10850.

3. Except as contained in their court reports and in their dealing with the parties in the particular case, the advocates are prohibited from releasing any information they gain from inspection of probation files.

- e. **Release of Records to Parties and Their Attorneys.** Any party of their attorney in any Welfare and Institutions Code section 300, 601 or 602 matter shall be given access to all records relating to the minor which are held by the court clerk. Said party or counsel shall also have the right to secure copies of such records. The party or counsel shall be responsible for paying for the cost of any copying.

The party or counsel shall fill out and present a declaration regarding their request. A copy of the declaration shall be filed in the court file.

- f. **Release of Delinquency Information to Schools (W&I 827,[b],[2]):**

1. The district attorney or probation officer may provide the superintendent of the minor's school district of attendance the fact that a minor has been found by the court to have used, sold or possessed narcotics or a controlled substance.
2. Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the  
  
limited purpose for which it was provided and shall not be further disseminated.

Eff. Jan. 1, 1999.

## **16.9 Release of Information Relating to Juveniles by Law Enforcement**

Pursuant to the cases of T.N.G. vs. Superior Court 4 Cal.3d 767, and Westcott vs. County of Yuba 104 C.A. 3d 103, this rule applies to all law enforcement agencies and officials in Mendocino County:

- a. **Identity of Juvenile.** Do not release your arrest reports or other information in regard to the identity of individual juveniles under the age of eighteen (18) years who are the subject of juvenile court proceedings to the press or other media or to any persons or public agency except as set forth in paragraph (b).

**b. Information re Incident.** You may release the police report or information in regard to the incident, with the exceptions noted, to:

1. The minor, if he is representing himself in a juvenile court proceeding, or to his attorney pursuant to the standing juvenile court discovery order.
2. The District Attorney of Mendocino County.
3. The law enforcement agency of the minor's residence.
4. Other law enforcement agencies who require it for crime investigation or reporting purposes.
5. The Mendocino County Probation Department.
6. Court personnel.
7. The Mendocino County Department of Social Services, Child Protective Services.
8. The parents or legal guardian of the minor, unless there is a reference to another minor in the report. In that situation, the request must be approved by the juvenile court.
9. The school attended by the minor.
10. Victims of juvenile crime. They may be given the names and addresses of the persons mentioned in the report, without reference to the status of any minors. The release of further information must be approved by the juvenile court.
11. Hospitals, schools, camps, Job Corps or placement agencies which require the information for the placement, treatment or rehabilitation of the minor.
12. The persons entitled thereto under Vehicle Code sections 20008-20012.
13. Any coroner or medical examiner.

**c. Commission of Felony.** After your department received notice of the disposition of the case, if the minor was found by the court to have committed a felony, you may send the usual information to the CII, FBI or other police agencies within California, but to no other persons or agencies (except as otherwise authorized herein).

**d. Contents of Report.** Note that the order does not prohibit release of information by law enforcement agencies about crimes or the contents of arrest reports, except insofar as they disclose the identity of the juvenile subject of juvenile court proceedings.

**e. Coroner's Reports.** This order does not apply to coroner's reports.

Eff. Jan. 1, 1999.

## **16.10 Juvenile and Family Courts Exchange of Information**

This rule addresses the exchange of information between Family Court Mediator (FCM) and Probation Department Juvenile Division staff (PD) and the Department of Social Services, Child Protective Services (CPS). The disclosure of information concerning children and their parents by any of these agencies is generally prohibited by law. Nevertheless, a limited exchange of information about children or parents between these agencies in certain circumstances will serve the best interests of the child who is before the court.

The court hereby finds that the public interest, in avoiding duplication of effort by the courts and by the investigative agencies serving the juvenile and family courts and the value of having relevant information gathered by a court agency outweighs the confidentiality interests reflected in Penal Code sections 11167 and 11167.5 and Welfare and Institutions Code sections 827 and 10850 et seq., and therefore good cause exists for the following rule:

**a. Abuse/Neglect.** The family court mediator may orally disclose to probation department or child protective services staff who are investigating a suspected child abuse or neglect situation the following information:

1. Whether the minor has been or is the subject of an FCM custody investigation.
2. The recommendations made or anticipated to be made to the court by the FCM staff.
3. The family court orders in existence.
4. Any statements made by the child or the child's parents, guardians or custodians which might bear upon the issue of child abuse or neglect being investigated.

**b. Custody/Visitation Disputes.** Probation department or child protective services staff may orally disclose to the family court mediator who is

mediating or investigating a child custody/visitation dispute the following information:

1. Whether the minor is or has been the subject of a child abuse or neglect investigation and the status of that investigation.
2. The recommendations made or anticipated to be made to the court by the probation department or child protective services staff.
3. Any juvenile court orders or petitions in existence which might bear upon the child custody/visitation dispute being investigated.
4. Any statements made by the child, the child's parents, guardians or custodians which might bear upon the child custody/visitation dispute being investigated.
5. The details of any report of suspected abuse of the child, except the identity of any original reporting party who has expressed a desire to remain anonymous.

**c. Conditions.** Any disclosure authorized by this order shall be subject to the following conditions:

1. The agency receiving the request shall first establish to its satisfaction that the inquiring party is in fact a member of an agency designated above.
2. All information shall be provided orally.
3. If an agency desires written documentation, it shall make written application for a court order releasing that documentation.
4. The information gathered shall be used exclusively in the investigation being conducted and the subsequent court proceedings, and shall not be repeated to anyone not a party to those proceedings without court order.

Nothing in this order is intended to limit any disclosure of information by any agency which is otherwise required or permitted by law or by other court orders.

Eff. Jan. 1, 1999.

## **16.11 Medical Issues**

- a. Standing Order Permitting Health Assessment, Physical Examination, Laboratory Tests, Venereal Disease Screening and Furnishing of Contraceptives, Immunizations, Routine Medical Care, Mental Health

**Evaluation and Services, and Dental Assessments and Treatment of  
Temporarily Detained Minors.**

In order that juveniles confined in the Mendocino County Probation Department and Department of Social Services, Child Protective Services temporary holding facilities (i.e., Children's Shelter, Juvenile Hall, Juvenile Rehabilitation Facilities, Emergency Satellite Homes, Emergency Foster Homes, and alternative shelter programs) receive necessary care of their physical and mental health, and do not endanger the health and welfare of other persons in these facilities, the Mendocino County Community Clinic, and/or the Mendocino County Department of Mental Health, Mental Health Facility are hereby authorized to provide the following services to all such juveniles, which services follow the "Statement of Committee On Adolescence of the American Academy of Pediatrics, Health Care for Children and Adolescence in Detention Centers, Jails, Lock-ups, and other Court Sponsored Residential Facilities":

1. A comprehensive health assessment and physical examination.
2. Any clinical laboratory tests the physician determines are necessary for the evaluation of the juvenile's health status.
3. Upon consent of the juvenile, sexually active juveniles may be screened for venereal disease. Contraceptive devices may be furnished to any juvenile upon the minor's request.
4. Any immunization necessary to bring a juvenile's immunization up to date, and, if immunization records are unavailable, any immunizations recommended by the American Academy of Pediatrics for that child's age.
5. Any routine medical care required based on the results of the comprehensive health assessment, and any routine medical care required for the care of illness and injury, including the use of standard x-rays. Routine medical care as referred to above includes:
  - a. first aid care for conditions which require immediate assistance from a person trained in basic first aid as defined by the American Red Cross or its equivalent;
  - b. clinic care for ambulatory juveniles with health care complaints which are evaluated and treated at sick call or by special appointment; and
  - c. inpatient bed care for illness or injury which requires limited observation and/or management and does not require admission to a licensed hospital. Routine medical care

does *not* include blood transfusions or inpatient care for illness or diagnosis which requires optimal observation and/or management in a licensed hospital.

6. A mental health status evaluation and necessary mental health services except no placement in an inpatient psychiatric facility shall occur without compliance with Welfare and Institutions Code sections 319.1, 635.1` and 5150, et seq.
7. A dental assessment, including x-rays when appropriate, and any routine dental treatment required based on the results of the dental assessment.

At the time of admission to the temporary holding facility all reasonable efforts should be made to obtain the consent of the parent or legal guardian for non-routine medical care while the juvenile is temporarily detained or placed out-of-home. In the event said consent cannot be obtained (e.g. parent or guardian is not available to give consent), the medical clinic shall request a court order for any non-routine health care.

**b. Authorization for Use of Psychotropic Drugs**

1. The administration of psychotropic drugs to minors who are wards or dependent children shall only occur upon the authorization of a duly licensed psychiatrist, or the Medical Director of Juvenile Institutions or his designated physician.
2. The administering psychiatrist may initiate or continue the use of such drugs for a five to seven day temporary period while attempting to obtain parental or guardian consent.
3. As soon as it becomes known that the minor, a parent or guardian or the minor's attorney objects to the administration of psychotropic drugs, the matter will be set for hearing in the juvenile court.
4. This rule does not apply to a minor who is placed in a mental health facility pursuant to a Lanterman-Petris-Short Act commitment (Welfare and Institutions Code section 16550, et seq.)

Eff. Jan. 1, 1999.

**16.12 Law Enforcement Contacts with Minors Under Juvenile Court Supervision**

**a. Minors in Custody**

- 1. Removal from Juvenile Facilities.** No minor shall be removed from a County Juvenile Facility (Juvenile Hall, Children's Shelter, Juvenile Rehabilitation Facilities), by a law enforcement officer, for other than permanent release, without the written approval of:
  - a. the minor's parent or legal guardian, except where either could be found to be a defendant in the same or a related charge as the minor, and
  - b. the minor's attorney, and
  - c. the minor's probation officer or social worker, and
  - d. a superior court judge assigned to juvenile court.
- 2. Steps to Take by Law Enforcement Officer:**
  - a. obtain written permission from the parent or guardian;
  - b. obtain written permission from the minor's attorney;
  - c. present the written approval to the minor's probation officer or social worker; and
  - d. the probation officer or social worker will take the application to the court for its consideration.

**See the Appendix for a suggested form: "Application and Order Regarding Removal of a Minor from a Juvenile Institution by Law Enforcement Personnel".**

**Exception:**

These procedures need not be followed:

- a. when the minor is a defendant (in a court other than juvenile court) or a subpoenaed witness in a legal proceeding; or
- b. when there is an emergency, in which case the juvenile court judge may be contacted directly; or
- c. when the minor is detained in a children's shelter or an emergency foster home and is being arrested and taken to a holding facility for delinquent minors.

**3. Law Enforcement Interrogation of Minors in County Institutions (Juvenile Hall, Juvenile Rehabilitation Facilities)**

**a. Minors in Pre-Dispositional Phase of Court Process**

1. No minor placed in a county juvenile institution who is a suspect shall be interrogated by law enforcement without express approval of the minor's attorney. The fact that the minor is represented by an attorney on an unrelated charge or incident is not a valid reason not to obtain the approval of that attorney.
2. If a minor is not represented by counsel, the probation officer shall inform the minor (in addition to any other rights) that the public defender is available to represent him/her or at least consult with him/her on short notice at no cost.

**b. Minors in Post-Dispositional Phase of Court Process**

1. Law enforcement personnel may interrogate minors in county institutions if the minor has completed the court process on the charge(s) for which he/she was arrested and adjudicated.
2. If a minor is not represented by counsel, the probation officer shall inform the minor (in addition to any other rights) that the public defender is available to represent him/her or at least consult with him/her on short notice at no cost.

**c. Interviews of Minors in County Institutions**

1. Law enforcement personnel may interview a minor in custody who is an alleged victim, reporting party, or witness in a legal proceeding without the express approval of the minor's attorney or the court. The probation officer or facility shall have the right to regulate the times of such interviews.
2. If the interview changes into an interrogation, the enforcement personnel shall follow the procedures specified in Section 3 above.
3. Law enforcement personnel does not include probation officers or probation institutional staff.

- b. Minors on Probation Residing in the Community.** If members of law enforcement wish to utilize a minor who is presently on probation to assist in investigating criminal activity, the same application and order procedure shall be followed that is outlined in Part 1.
- c. Exception.** Law enforcement personnel wishing to fingerprint or photograph juveniles may remove minors from the detention facility and need not follow the procedures described herein.

Eff. Jan. 1, 1999.

### **16.13 Line-Ups**

No minor who is detained in any county facility (Juvenile Hall, Juvenile Rehabilitation Facility or Children's Shelter) in Mendocino County or who has a pending court hearing shall participate in any line-up conducted by law enforcement or probation without court authorization. Authorization shall be sought by noticed motion before the supervising judge of the delinquency calendar if the minor is pending a delinquency matter, or before the supervising judge of the dependency calendar if the minor is pending a dependency matter. All parties shall receive notice of any such motion.

Eff. Jan. 1, 1999.

### **16.14. Inspection of Law Enforcement Lock-Ups**

Pursuant to Welfare and Institutions Code section 209 the Juvenile Justice Commission shall conduct an annual inspection of all law enforcement facilities in Mendocino County which contain a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

The results of each inspection shall be presented in writing to the presiding judge of the juvenile court during the calendar year.

Eff. Jan. 1, 1999.

### **16.15 De Facto Parents/Relations/Interested Persons**

- a. De Facto Parents.** Upon a sufficient showing the court may recognize the child's present or previous custodians as de facto parents and grant standing to participate as parties in dispositional hearings and any hearings thereafter at which the status of the dependent child is at issue. The person seeking de facto parent status shall file a noticed motion before the court setting out the reasons in support of the motion, unless the court shall for good cause permit an oral motion to be made.

The de facto parent shall have the rights outlined in CRC 1612(e).

- b. Relatives.** Upon a sufficient showing the court may permit relatives of the child to be present at the hearing and address the court. The court shall hear from all parties before granting such permission.
- c. Interested Persons.** Upon a sufficient showing the court may permit any interested person to be present at the hearing and address the court. The court shall hear from all parties before granting such permission.

Eff. Jan. 1, 1999.

## **16.16 Motion to Challenge Legal Sufficiency of Petition**

In any dependency proceeding the court may entertain a prehearing challenge to the petition's sufficiency by a motion akin to a demurrer. Such a motion may be made in writing or orally, but must be made as early in the proceedings as possible.

The court may rule on the motion at the hearing at which it is made, or may continue the hearing on the motion to another date in order to receive points and authorities from counsel.

If the court sustains the motion, the court may grant leave to amend the pleading in the petition upon any terms as may be just and shall fix the time within which the amendment or amended petition shall be filed within the statutory time for the hearing on jurisdiction.

In re Fred J (1979) 89 Cal.App.3d 168 CCP 472(a).

Eff. Jan. 1, 1999.

## **16.17 Presentation of Evidence**

- a. Offers of Proof.** The party presenting evidence may utilize an offer of proof with regard to any witness. Other parties shall have an opportunity to examine the witness after any offer of proof is made.
- b. Admissibility of Social Study or Report.** The party presenting evidence may submit a report prepared by the witness as a part or all of that witness' direct examination. Other parties shall have an opportunity to examine the witness on the contents of the report.

Eff. Jan. 1, 1999.

## **16.18 Paternity Findings (CRC 1612(m))**

- a. Determination of Issue.** The issue of the paternity of a minor may be

determined in the context of a juvenile court proceeding.

- b. **Necessary Court Measures.** If a person claims to be the natural/biological father of a child who is the subject of juvenile court proceedings, the court may take such measures as are necessary to make a paternity finding.
- c. **Right to Counsel/Legal Responsibilities.** In any paternity proceeding arising under this rule the court shall inform the mother and the person claiming to be father of their right to be separately represented by counsel on the issue of paternity. The court shall advise the person claiming to be father of his legal responsibilities should he be found to be the natural father of the minor, including the obligation to pay child support and the possibility he may be incarcerated if he willfully fails to pay child support after being legally ordered to do so.
- d. **Evidence or Testimony.** The court shall permit such evidence to be taken as necessary to determine the paternity of the child. Testimony from the mother and the person claiming to be the natural father may be sufficient to make a paternity finding. If the mother or the person claiming to be father is absent from the court proceeding, evidence in addition to testimony from those in attendance will normally be necessary to enable the court to make a paternity finding.
- e. **Scientific Testing.** The court may order blood or other scientific tests if it believes such tests will assist in making a paternity finding. The court shall determine which party or parties shall pay for any such test.
- f. **Release of Findings/Need to Know.** Any paternity finding shall be noted in the clerk's minutes and shall be available to any person or agency having a need to know upon request.

Eff. Jan. 1, 1999.

## **16.19 Representation of Minors (Welfare and Institutions Code Section 318)**

- a. **Independent Investigation.** No one shall appear as attorney for a child in a dependency proceeding who has not made an independent investigation pursuant to Welfare and Institutions Code section 317(e). If the minor is four years or older, the independent investigation shall include an interview with the minor.
- b. **Access to Minors Petitioned Pursuant to Welfare and Institutions Section 300**

- 1. No party or attorney in a dependency proceeding shall interview

the minor about the events relating to the allegations in the petition(s) on file without permission of the minor's attorney or court order.

2. No party or attorney in a dependency proceeding shall cause the minor to undergo a physical, medical or mental health examination or evaluation without court approval.
3. The court shall make the selection of the person to perform any such examination. Each party shall have the right to notice and to be heard on the person to be selected.
4. This rule does not apply to the investigating probation officer or investigating social worker.

**c. Interviewing Minors Who Are Alleged Victims of Child Abuse.** All dependency investigators in the probation department and child protective services, all attorneys representing parties in a dependency case in which child abuse has been alleged and other participants in the case, including a child advocate, shall attempt to minimize the number of interviews they take of the minor relating to the events surrounding the alleged abuse. To this end anyone wishing to learn facts about the alleged incident shall first review the comprehensive interview taken by the investigating officer.

**d. Presence of Child in Court**

1. All children are entitled to attend court hearings. Every child four (4) years or older shall be told of his right to attend court hearings by the investigating/supervising probation officer/social worker.
2. All children shall attend court hearings unless excused for one of the listed reasons:
  - a. the minor's attorney waives the minor's appearance;
  - b. the minor chooses not to attend;
  - c. the minor is excused by the court; or
  - d. the child is disabled, physically ill, or hospitalized.
3. No child shall be brought to court solely for the child to confer with his or her attorney or for a visit with a parent, relative or friend.
4. If the child is present, the judicial officer hearing the case may view and speak with the child.

Eff. Jan. 1, 1999.

## **16.20 Modifications of Orders (Welfare and Institutions Code Sections 386, 387, 388, CRC 1639-1641)**

- a. More Restrictive Placement.** Any motion by petitioner to modify an existing order to a more restrictive placement shall be implemented pursuant to Welfare and Institutions Code section 387 and CRC 1630(c), 1631.
- b. Less Restrictive Placement.** Any motion by an interested party to modify the court's orders to a less restrictive placement shall follow the procedures outlined in Welfare and Institutions Code section 388 and CRC 1630(d), 1632.
- c. Previous Order.** Any order changing, modifying or setting aside a previous order of the juvenile court must comply with Welfare and Institutions Code section 386 and CRC 1631(e).

In any order pursuant to this section, the signed approval of the attorney for the minor (or, if unrepresented, the minor) on the application and order shall constitute compliance with this statute and this court rule.

- d. Decrease in Visitation by Parent/Party.** Any significant decrease from the court-ordered level of a parent's/party's level of visitation shall be presented to the affected parent/party for comment before being submitted to the court. The court may set a hearing on the issue after hearing the parent's/party's comments on the proposed reduction.
- e. Vacations Out of Mendocino County.** Permission for a dependent child's custodian to take the child out of Mendocino County for a vacation may be submitted directly to the court for approval. Any attempts to notify the parents shall be indicated in the application.
- f. New Service Plan Requirements.** Any significant changes or additions to the service plan for parents/guardians shall be submitted to them for

approval before implementation. A parent who disagrees with the new requirements may request a hearing with the court on the matter.

Eff. Jan. 1, 1999.

## **16.21 Creation of a Family Court Order in Juvenile Court**

- a. Petition for Dismissal.** Whenever any interested party believes that juvenile court intervention on behalf of the child is no longer necessary,

application may be made to the juvenile court pursuant to Welfare and Institutions Code section 388 or at any regularly scheduled hearing to have the case dismissed. Thereafter, any future litigation relating to the custody, visitation and control of the child shall be heard in the family court or other appropriate superior court civil department.

- b. Juvenile Court Custodial Order.** If the juvenile court determines that jurisdiction of the juvenile court is no longer necessary for the protection of the child, the court may create a custodial order consistent with the needs of the child and thereafter dismiss the juvenile petition and case (Welfare & Institutions Code section 361.2, 362.4). Any party may object to the proposed dismissal and be heard on the issues.

**c. Maintenance of Orders in Court Files**

- 1. Juvenile Court.** The original court order shall be filed in the family court or civil file and endorsed copies shall be filed in the juvenile court file. A copy of the endorsed-filed order shall be mailed to the attorneys and parties.
- 2. Superior Court.** If no court file exists in the family court or other superior court division or in any other jurisdiction, the court clerk shall create a file under the names of the child's parents. The file shall contain a copy of the juvenile court order. There shall be no filing fee.

Welfare and Institutions Code Section 362.4.

Eff. Jan. 1, 1999.

## **16.22 Guardians Ad Litem**

**a. For Minors**

- 1.** All minors who are the subject of juvenile court proceedings shall have a guardian ad litem appointed to represent them.
- 2.** In most cases the assigned probation officer or social worker shall be the guardian ad litem. Welfare and Institutions Code section 326.
- 3.** In case of a conflict of interest, the court may appoint a different adult as guardian ad litem for the minor.

**b. For Parents**

The court shall appoint a guardian ad litem to represent any incompetent parent or guardian whose child is before the juvenile court pursuant to a dependency petition (Welfare and Institutions Code section 300 et seq.). The determination of incompetency may be made by the court at any time in the proceeding based upon evidence received from any interested party.

**c. Notice to Guardian Ad Litem, Access to Records, Rights to Appear**

1. In all proceedings the guardian ad litem shall be given the same notice as any party.
2. The guardian ad litem shall have the same access to all records relating to the case as would any party.
3. The guardian ad litem shall have the right to appear at all hearings.

Eff. Jan. 1, 1999.

**16.23 Local Rules Relating to Child Advocates**

**a. The Advocate Program**

1. The court may appoint child advocates to represent the interest of dependent children. In order to qualify for appointment the child advocate must be trained by and function under the auspices of a court appointed special advocate program, formed and operating under the guidelines established by the national Court Appointed Special Advocate Association (W & I 1356.5).
2. Pursuant to the provisions of W & I Code section 100, the program guidelines as presently adopted and as may hereafter be adopted, amended, modified and/or repealed by the Judicial Council of California, are hereby adopted and incorporated in the local rules of the Superior Court of Mendocino County.
3. The advocate program shall report regularly to the presiding judge of the juvenile court with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for child advocates.

**b. Child Advocates**

1. **Advocates' Functions.** Advocates serve at the pleasure of the

court having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate's functions are as follows:

- a. to support the child throughout the court proceedings;
- b. to establish a relationship with the child to better understand his or her particular needs and desires;
- c. to communicate the child's needs and desires to the court in written reports and recommendations;
- d. to identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;
- e. to provide continuous attention to the child's situation to ensure that the court's plans for the child are being implemented;
- f. to the fullest extent possible, to communicate and coordinate efforts with the case manager (probation officer/social worker);
- g. to the fullest extent possible to communicate and coordinate efforts with the child's attorneys; and
- h. to investigate the interests of the child in other judicial or administrative proceedings outside juvenile court; report to the juvenile court concerning same; and, with the approval of the court, offer his/her services on behalf of the child to such other courts or tribunals.

**2. Sworn Officer of the Court.** An advocate is an officer of the court and is bound by these rules. Each advocate shall be sworn in by a superior court judge before beginning his/her duties, and shall subscribe to the written oath set forth in the appendix attached hereto.

**3. Specific Duties.** The court shall, in its initial order of appointment, and thereafter subsequent order as appropriate, specifically delineate the advocate's duties in each case, which may include independent investigation of the circumstances of the case, interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation right for the child's grandparents and other relatives, and reporting back directly to the court as indicated. If no specific duties are outlined by court order, the

advocate shall discharge his/her obligation to the child and court in accordance with the general duties set forth in (a) above.

**c. Release of Information to Advocate**

- 1. To Accomplish Appointment.** To accomplish the appointment of an advocate, the judge making the appointment shall sign an order granting the advocate the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the court.
  - 2. Access to Records.** An advocate shall have the same legal right to records relating to the child he/she is appointed to represent as any case manager (social worker or probation officer) with regard to records pertaining to the child held by any agency, school, organization, division or department of the state, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present his/her identification as a court-appointed advocate to any such record holder in support of his/her request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child.
  - 3. Report of Child Abuse.** An advocate is a mandated child abuse reporter with respect to the case to which he/she is appointed.
  - 4. Communication.** There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments, maintained among the advocate, case manager, child's attorney, attorneys for parents, relatives, foster parents and any therapist for the child.
- d. Right to Timely Notice.** In any motion concerning the child for whom the advocate has been appointed, the moving party shall provide the advocate timely notice.
- e. Calendar Priority.** In light of the fact that advocates are rendering a volunteer service to children and the court, matters on which they appear should be granted priority on the court's calendar, whenever possible.
- f. Visitation Throughout Dependency.** An advocate shall visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate shall monitor the case as appropriate until dependency is dismissed.

- g. Family Law Advocacy.** Should the juvenile court dismiss dependency and create family law orders pursuant to Welfare and Institutions Code section 362.4, the advocate's appointment may be continued in the family law proceeding, in which case the juvenile court order shall set forth the nature, extent and duration of the advocate's duties in the family law proceeding.
- h. Right to Appear.** An advocate shall have the right to be present and be heard at all court hearings, and shall not be subject to exclusion by virtue of the fact that he/she may be called to testify at some point in the proceedings. An advocate shall not be deemed to be a "party", as described in Title 3 of Part II of the Code of Civil Procedure. However, the court, in its discretion, shall have the authority to grant the advocate amicus curiae status, which includes the right to appear with counsel.

Eff. Jan. 1, 1999.

(Page deliberately left blank)